

REMARKS

The Office Action dated April 28, 2005 has been received and carefully considered. The following remarks are being submitted as a full and complete response to the Office Action.

An amendment to the specification, to correct a minor and self-evident error, has been made as shown above. The amendment does not introduce new matter, and entry of the amendment is respectfully requested.

Claims 1 to 4 have been rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by a product brochure entitled *PneuSim Pro* from Famic Technologies.

Initially, it is respectfully submitted that the product brochure is not properly citable under 35 U.S.C. § 102(e), because this document is not an "application for patent" or a "patent granted on an application for patent filed by another" in the United States, as required by the statutory language.

It appears that the Examiner may have intended to apply the cited reference under 35 U.S.C. § 102(a) or 102(b), based on the alleged publication date of May 12, 2000, which comes before the earliest effective date available for the present application, i.e., the applicant's claimed priority date of November 16, 2000.

Nevertheless, it is respectfully submitted that the *PneuSim Pro* brochure is not properly citable, even under 35 U.S.C. § 102(a) or 102(b), because the asserted date of May 12, 2000 is not a publication date of the reference, but rather is merely indicative of a "creation date" of the PDF source file. No evidence has been provided of the date on which this PDF document

was first made accessible to the public. See, U.S. Manual of Patent Examining Procedure, MPEP § 2128, which states clearly, "Prior art disclosures on the Internet or on an on-line database are considered to be publicly available as of the date the item was publicly posted. If the publication does not include a publication date (or retrieval date), it cannot be relied upon as prior art under 35 U.S.C. 102(a) or (b)."

The date relied on by the Examiner was derived from the embedded PDF Document Summary, or in other words, the summary of "Document Properties," which exists as part of the metadata produced when the document was created and/or modified and saved in Adobe Acrobat. Not only is such metadata susceptible to manipulation, such data provides no proof of an actual date on which the PDF document was made accessible to the public. Rather, the creation date simply indicates when the document was last modified or saved as a PDF file.

Insofar as no other verifiable "publication date" is shown anywhere in the reference, it is respectfully submitted that the Examiner has not established that the reference was publicly available prior to the effective date of the present application, and therefore this reference is not properly citable against the pending claims, under any section of 35 U.S.C. § 102. Accordingly, removal of the reference, and withdrawal of the rejection to claims 1-4, is respectfully requested.

Further, it is respectfully submitted that, even if the reference were to possess a proper publication date with respect

to the pending claims, numerous features of the claimed invention are not shown or even remotely suggested in the cited document.

For example, although the Examiner has asserted that the *PneuSim Pro* brochure teaches means for inputting a piston area of a head end chamber of the pneumatic cylinder, a piston area of a piston rod-end chamber of the pneumatic cylinder, an effective area of a head-end tube passage of the pneumatic cylinder, an effective area of a rod-end tube passage of the pneumatic cylinder, effective areas during free flow and controlled flow of the speed controller, and effective areas of the pneumatic tubes, as presently claimed, in fact there is no discussion in the reference of any means or step by which "area" values are enterable at all, for processing by the simulation program disclosed in the cited document. In fact, the term "area" does not appear anywhere in the cited document.

Further, the section on page 4 of the *PneuSim Pro* brochure ("New Pneumatic Cylinder Configurator"), which is highlighted by the Examiner in the Office Action, does not suggest any method or means by which area and effective area values of different components making up a pneumatic system are entered, in order to calculate simulated results of piston stroke time and piston velocity based on such areas, and wherein such results are displayed in a superimposed manner in a display window, as set forth in detail in the pending claims.

For the foregoing reasons, it is respectfully submitted that the cited PDF document does not constitute proper prior art under any section of 35 U.S.C. § 102. Moreover, even if the

document were prior art, it does not disclose or suggest the features of the pending claims. Accordingly, the rejections to claims 1 to 4 of the present application are improper, and withdrawal of the rejections is respectfully requested.

Should it be deemed that fees, or deficiencies in fees, are required in connection with this or any accompanying communication, such amounts may be charged to the Attorney's Deposit Account No. 07-2519.

Respectfully submitted,



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